



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

REPLY TO
ATTENTION OF

CERTIFIED MAIL RETURN RECEIPT REQUESTED

September 8, 1994

Regulatory Section (199400294)

Preston and Lois Avery
5245 Shady Ave.
San Jose, CA 95129

Dear Mr. and Mrs. Avery:

This is the second notification sent to you concerning an unauthorized fill into a "water of the United States". The unauthorized discharge occurred on Contra Costa County Assessor's Parcel Number 029-010-017, toward the east end of Willow Road West, Bethel Island, California, projected Section 3, Township 2 North, Range 3 East, M.D.B. & M..

On-site inspections of the site were conducted on March 18, 1994, and again on March 31, 1994, by Ms. Kathy Norton and Mr. Mitch Hayden from our office. They determined that approximately one quarter (1/4) acre of wetland (a water of the United States) on your property had been filled. Statements by local residents and Bethel Island Municipal Improvement District indicate the fill material was transported from APN 029-010-011 currently owned by Robert Butler (previously owned by Robert Taylor) and placed on your property.

Section 404 of the Clean Water Act requires that a Department of the Army permit be obtained prior to the discharge of dredged or fill material into a water of the United States including wetlands. Since a Department of the Army permit has not been issued authorizing this discharge, the work is in violation of the Clean Water Act. We have enclosed an extract of the law for your reference.

You are hereby directed to cease and desist from any additional discharge of fill material into wetlands on Assessor's Parcel Number 029-010-017.

We are currently conducting an investigation to determine the impact of this work on the public interest and the course of action that should be taken. To ensure that all pertinent information is available for our evaluation and included in the public record, you are invited to provide any information which you feel should be considered. Your plans for utilization of this work and your evaluation of the need to retain this fill may be of particular significance in determining what actions are to

be taken. Since the information provided will become a part of the public record, it may be presented in any court action that could result from this investigation. Any information you wish to provide should reach this office no later than September 22, 1994.

As of September 8, 1994, we have received no response to our letter dated May 13, 1994. Also additional inspections of Assessor's Parcel Number 029-010-017 since March 31, 1994 reveal no efforts to remove the unauthorized fill from the parcel to allow revegetation of the wetland.

Please refer to identification number 199400294 in any future correspondence concerning this action. If you have any questions, please write to Mitch Hayden, Room 1444, or telephone (916) 557-5259.

Sincerely,

Frank A. Dennis
 For D. A. Dennis
 Chief, Construction-Operations
 Division

Enclosure

Copies Furnished w/out enclosure:

California Department of Fish and Game, Region II, Environmental Services, 1701 Nimbus Road, Rancho Cordova, California 95670
 U. S. Fish and Wildlife Service, Ecological Services, 2800 Cottage Way, Room E-1803, Sacramento, California 95825
 U. S. Environmental Protection Agency, Wetlands Section (W-7-2), 75 Hawthorne Street, San Francisco, California 94105-3901
 State Lands Commission, Delta Unit, 1807 13th Street, Sacramento, California 95814
 Contra Costa County, Community Development Department, 651 Pine Street, Martinez, California 94553-0095